

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re O.P., a Person Coming Under the  
Juvenile Court Law.

SAN BERNARDINO COUNTY  
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

C.P. et al.,

Defendants and Appellants.

E059335

(Super.Ct.No. J244556)

O P I N I O N

APPEAL from the Superior Court of San Bernardino County. Cheryl C. Kersey,  
Judge. Affirmed.

Valerie N. Lankford, under appointment by the Court of Appeal, for Defendant  
and Appellant A.N.

Matthew I. Thue, under appointment by the Court of Appeal, for Defendant and  
Appellant C.P.

Jean-Rene Basle, County Counsel, and Danielle E. Wuchenich, Deputy County Counsel, for Plaintiff and Respondent.

## I. INTRODUCTION

Defendants and appellants, A.N. (Mother) and C.P. (Father), are the parents of O.P. In this case initiated by plaintiff and respondent, San Bernardino County Children and Family Services (CFS), the juvenile court removed O.P. from the parents' custody because of the parents' drug use and domestic violence issues. O.P. was placed with his maternal grandparents. After the parents failed to reunify with O.P., CFS recommended that the maternal grandparents adopt O.P.

At a hearing held pursuant to Welfare and Institutions Code section 366.26,<sup>1</sup> the trial court terminated the parental rights of O.P.'s parents and selected adoption as the permanent plan for O.P. The maternal grandparents are the prospective adoptive parents.

On appeal, Mother argues the court erred by: (1) failing to grant an evidentiary hearing on Mother's request for change of court order, or section 388 petition; and (2) failing to apply the beneficial parental relationship exception to terminating parental rights under section 366.26, subdivision (c)(1)(B)(i). Father joins in Mother's arguments. We reject these arguments and affirm the court's orders.

---

<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

## II. FACTUAL AND PROCEDURAL BACKGROUND

### A. *Detention (May – June 2012)*

In May 2012, Mother and Father were arrested following an altercation in which Father attempted to gouge Mother's eye out and Mother broke Father's nose. Their 18-month-old son, O.P., was in the house at the time of the fight.

After the parents were released from jail, a social worker met with Mother. Mother initially described the fight with Father as a verbal altercation. She later admitted the fight became physical, but would not give the social worker details. She admitted that she and Father used marijuana; Mother used it for her glaucoma and Father for his bi-polar disorder.

O.P.'s maternal grandmother told the social worker that the parents had fought other times, but never so violently. According to the maternal grandmother, Mother and O.P. were supposed to stay at her home following Mother's release from jail; however, they stayed with her only one night before returning to Father's house.

CFS took O.P. into protective custody. He was placed with maternal grandmother.

CFS filed a juvenile dependency petition based on section 300, subdivision (b) (failure to protect). CFS alleged Mother and Father engaged in domestic violence in the presence of O.P., putting the child at substantial risk of serious physical harm, and the parents suffered from substance abuse issues that impaired their ability to appropriately parent O.P.

At a detention hearing, the court found a prima facie case for juvenile court jurisdiction under section 300 and placed O.P. in the temporary custody of CFS. The court ordered separate, supervised visits for each parent to take place once each week.

*B. Jurisdiction/Disposition (June – July 2012)*

In a report prepared for the jurisdictional/dispositional hearing, CFS described evidence of the parents' history of domestic violence and drug use. In addition to the incident that led to their arrest, Father reported two other instances of physical fights with Mother. The first occurred when Mother was pregnant, before O.P. was conceived. (That pregnancy was terminated by an abortion.) Regarding drug use, Mother said she first used marijuana when she was 12 years old and began using on a nightly basis since she was 16 years old. (She was 22 years old at the time of the social worker's report.) Father admitted using marijuana every morning and night (and midday on his days off from work) when he could afford to do so. He had also used Percocet, morphine, and ecstasy.

The social worker opined that "neither parent would intentionally harm the child, however[,] it is clear he would be at risk with either parent due to domestic violence and substance abuse issues." "The escalating intensity of the violence," she added, "puts the child at serious risk for physical harm. Furthermore, the parents minimizing the severity of the violence show that they do not understand the effect that it is having on their child."

The parents' visits with O.P. were described as "positive."

At the jurisdictional/dispositional hearing, the court found the allegations of the petition true, declared O.P. a dependent of the court, and removed him from the parents' custody. Reunification services were ordered for the parents. O.P. continued to be placed with maternal grandmother.

*C. Six-month Review Period (July 2012 – February 2013)*

During the next six months, Mother reportedly “made substantial progress” in therapy and was “able to address her anger issues as well as [her] and [Father’s] unhealthy relationship.” She completed parenting education and anger management programs, and was attending a domestic violence program. According to the social worker, Mother “appears to be motivated toward reunifying with [O.P.],” “has been cooperative,” “visits frequently with [O.P.],” “and is actively engaged in her case plan.”

Regarding her marijuana use, Mother “relapsed by testing positive for marijuana” on one occasion in late November 2012. Nine other tests were negative. Mother said the relapse occurred when she smoked marijuana with Father. However, Father denied this; while he admitted smoking marijuana, he said he did not do so with Mother.

Although Father’s case plan required substance abuse treatment, Father informed the social worker he would not participate in such a program because he had a medical marijuana card. He did not report for drug testing during the six-month review period. Father began an anger management program in September 2012 and had not completed the program by the time the social worker made her report.

In November 2012, a social worker indicated there was a compelling reason to find that terminating parental rights at that time would be detrimental to the child because the parents had maintained regular visits and O.P. would benefit from continuing the relationship.

In December 2012, the parents were involved in a domestic violence incident. As a result, Father was arrested and charged with inflicting corporal injury on a spouse/cohabitant and with being “involved in a hit and run with property damage . . . .” Ten days later, Mother obtained a restraining order against Father.

As Mother progressed in her case plan, her visits with O.P. were liberalized to eight hours per week. However, after her marijuana relapse, visits were reduced to four hours per week. The social worker observed that her visits were “very consistent and appropriate” and Mother “and [O.P.] appear to be well bonded.” Father’s visits were not consistent. He missed several visits due to his “hectic work schedule” and, later, his incarceration for the December domestic violence incident.

Although the social worker indicated concern over Mother’s marijuana relapse and her “unhealthy interaction” with Father, the social worker concluded that Mother would be able to continue to address her issues if she was provided with continued services.

At a six-month review hearing in January 2013, the court told Mother that she was “doing really well on [her] plan,” and there was “no problem” with her; Father “is the problem.” The court admonished Mother not “to go around [Father] and expose [her]

child to domestic violence.” Mother told the court she did not plan to have any contact with Father.

The court made a tentative ruling to terminate services for Father. Father’s counsel requested the matter be set for a contested hearing.

In January 2013, a social worker observed Mother and Father embracing and kissing outside Father’s home. Mother initially denied the contact, but later admitted she had spent the night at Father’s house.

In early February 2013, Mother and Father were at a nightclub together. Later, they went to Father’s house and had a violent physical altercation, causing injuries to each of them. A search by law enforcement of Father’s house revealed Mother’s “ID,” credit card, and telephone, as well as marijuana paraphernalia, a shotgun barrel, a shotgun magazine tube, and a 12-gauge shotgun round. Father was arrested on charges of spousal abuse, violating a domestic violence order, and being a felon in possession of ammunition.

At the contested review hearing held in February 2013, the court terminated services for each parent and set a hearing to be held pursuant to section 366.26. Regarding visitation, Mother’s counsel requested visits of four hours per week. The court responded: “I’ll agree with you on this one in this case. Counsel has represented that you’re bonded with [O.P.]. I don’t know if it will change anything when we have the [section 366.26] hearing, but it is the only thing as far as I’m concerned you have going for you.” Visits between Father and O.P. were limited to two hours, twice each month.

*D. Section 388 Petition and Section 366.26 Hearing (March – December 2013)*

In April 2013, Father and Mother were involved in another domestic violence incident. As a result, Father was arrested on charges of burglary (of Mother's residence), inflicting corporal injury on a spouse/cohabitant, and violating a protective order. He remained in custody throughout the remainder of the juvenile court proceedings.

In a report prepared in May 2013 for the section 366.26 hearing, CFS recommended that parental rights be terminated and a permanent plan of adoption be implemented. The social worker reported that O.P.'s maternal grandparents, with whom O.P. had been placed since he was detained, wished to adopt the child. The child reportedly viewed the prospective adoptive parents as his parental figures.

The maternal grandparents indicated that after adoption, O.P. "will continue a relationship with [Mother] so long as the relationship is beneficial for [him.]" However, the social worker said it is unlikely that the prospective adoptive parents would feel it is safe to continue contact with Father.

In June 2013, Mother filed her section 388 petition. She requested that the court return O.P. to her custody or, in the alternative, reinstate reunification services and liberalize visitation. Mother listed the following changed circumstances: she is in a drug treatment program and testing clean; she is participating in anger management and parenting classes; she is in therapy; her visits with O.P. have been regular and positive; and she is employed and has suitable housing. She asserted that the requested change would be beneficial to O.P. because she "has a close bond with [O.P.] and loves him very

much[, and] believes that he should be raised by his mother.” Attached to the petition was documentary evidence of her participation in drug treatment services and classes in anger management and parenting, notes regarding her visits with O.P., and therapy progress reports.

The court set a hearing on the petition. The written order does not indicate any limitation concerning the presentation of additional evidence. However, when minor’s counsel asked the court whether the order setting the hearing was “for an evidentiary hearing” or whether the parties would be “arguing the issue of prima facie on that date,” the court stated, “[y]ou’re arguing prima facie and you might be doing the hearing.”

CFS filed two more reports prior to the hearing. In the first, CFS recommended that Mother’s section 388 petition be denied. While acknowledging “the plethora of services” Mother has participated in, CFS expressed “concern about whether [Mother] has truly benefited from services and can truly refrain from engaging in domestic violence.” The social worker observed that Mother had been untruthful about her contact with Father and that the two had engaged in “approximately four reported domestic violence incidents” during the reporting period. The most recent incident resulted in Father’s incarceration.

In the second report, the social worker reported that Mother had attended most of her scheduled visits with O.P. and acted appropriately. O.P. became excited when Mother arrived for the visits. He reportedly enjoyed the visits, “but is able to separate at the conclusion of visits without becoming upset by [Mother’s] departure.” Father’s visits

with O.P. were also described favorably. However, Father had not visited O.P. since his arrest in April 2013.

The hearing on Mother's section 388 petition was heard in July 2013. CFS submitted after introducing the agency's section 366.26 report and the two reports prepared in response to the section 388 petition. The court then called for argument. Mother's counsel presented argument based upon the documents attached to Mother's petition. Counsel for O.P., CFS, and Father each argued against granting the petition.<sup>2</sup>

In denying the petition, the court explained: "I can tell you, on its face, the [section] 388 request looks solid. However, by the time it came before the Court, [Mother] had again engaged in domestic violence with [Father]. . . . So granting the [section] 388 [petition] is not in the best interest of the child. [Mother has] failed to demonstrate true change of circumstances. Yes, going to meetings and counseling is good, but if you don't get anything out of it, then you're completely wasting your time, which is the way it looks. [¶] So with that in mind, the [section] 388 [petition], to grant it, is not in the best interest of [O.P.], and it does not state new evidence or change of circumstances. So, the [section] 388 [petition] is dispensed with."

---

<sup>2</sup> Counsel for Father asserted that Mother had not benefitted from her services. She added: "The underlying issue as far as [Father is] concerned is the safety of [O.P.], and Father feels that with Mother's cannibalistic traits, one of which points to Father. . . ." The court interrupted her at this point and asked about her use of the word "cannibalistic." Counsel then invited Father to explain. Father (who was not under oath) stated: "She ate my ear in the last fight in April." Father attributed this to Mother's "alcoholism and other drug habits."

The court then held the section 366.26 hearing. Mother did not testify. Father testified and presented the testimony of O.P.’s paternal grandfather and paternal grandfather’s girlfriend. Following argument, the court found that O.P. was adoptable and the parents’ bond with O.P. was “not significant enough to change the plan of adoption.” The court then ordered that the parents’ parental rights be terminated and selected adoption as the permanent plan. The parents appealed.

### III. ANALYSIS

#### *A. Mother’s Section 388 Petition*

Mother contends the court erred by failing to hold a “full evidentiary hearing” on her section 388 petition. Because we find no abuse of discretion in the court’s handling of the hearing and no deprivation of due process, we reject this argument.<sup>3</sup>

Section 388, subdivision (a) provides: “Any parent or other person having an interest in a child who is a dependent child of the juvenile court . . . may, upon grounds of change of circumstance or new evidence, petition the court . . . for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and . . . shall set forth in concise language any

---

<sup>3</sup> CFS argues that Mother forfeited any claim that the court should have held an evidentiary hearing because she “never asked for an evidentiary hearing.” We disagree. At the outset of her argument, Mother’s counsel “ask[ed] that [the] Court grant a hearing and grant the [section] 388 [petition].” We understand her request to “grant a hearing” in this context to be a request for a full evidentiary hearing. Therefore, the claim was not forfeited.

change of circumstance or new evidence that is alleged to require the change of order or termination of jurisdiction.”

The question of whether to grant a hearing on a section 388 petition is governed by subdivision (d) of that statute, which provides: “If it appears that the best interests of the child . . . may be promoted by the proposed change of order . . . the court shall order that a hearing be held . . . .” The petitioner establishes the requisite appearance by making a “prima facie showing” demonstrating (1) a genuine change of circumstances or new evidence and (2) the requested change would be in the child’s best interest. (*In re C.J.W.* (2007) 157 Cal.App.4th 1075, 1079 [Fourth Dist., Div. Two]; *In re Anthony W.* (2001) 87 Cal.App.4th 246, 250.) A prima facie showing is made when the evidence submitted in support of the petition refers to facts that will sustain a decision favorable to the petitioner. (*In re Edward H.* (1996) 43 Cal.App.4th 584, 593.)

Although the record is not clear as to whether the court in this case found that Mother’s petition established the required prima facie showing, it did grant Mother a hearing on her petition. CFS concedes that Mother’s petition established a prima facie case entitling her to a hearing.

Section 388 does not specify the nature or conduct of the hearing that “the court shall order,” or whether and what type of additional evidence must be received. That question is governed by rule 5.570(h) of the California Rules of Court.<sup>4</sup> (*In re E.S.* (2011) 196 Cal.App.4th 1329, 1339 [Fourth Dist., Div. Two]; *In re Lesly G.* (2008) 162

---

<sup>4</sup> All further references to rules are to the California Rules of Court.

Cal.App.4th 904, 913.) That rule specifies three situations in which the court is required to conduct the hearing on a section 388 petition “as a disposition hearing”—i.e., a hearing at which (among other requirements) the “court must receive in evidence and consider . . . any relevant evidence offered by . . . the parent or guardian.” (Rules 5.570(h)(2), 5.690(b).) These situations arise when: “(A) The request is for removal from the home of the parent or guardian or to a more restrictive level of placement; [¶] (B) The request is for termination of court-ordered reunification services; or [¶] (C) There is a due process right to confront and cross-examine witnesses.” (Rule 5.570(h)(2).) The first two situations are patently inapplicable here. The third was not raised below and is not asserted on appeal.

When, as here, the situation is not among the three specified in rule 5.570(h)(2), the rule further provides that “proof may be by declaration and other documentary evidence, or by testimony, or both, at the discretion of the court.” (Rule 5.570(h)(2) (last. sent.); see *In re Lesly G.*, *supra*, 162 Cal.App.4th at p. 913.) This rule is in accord with the long-held understanding “that juvenile proceedings need not be ‘conducted with all the strict formality of a criminal proceeding.’ [Citations.]” (*In re Lesly G.*, *supra*, at p. 914.) Thus, even when the petition and its supporting evidence are sufficient to entitle the petitioner to a hearing, “the right to a hearing does not necessarily entitle the petitioning party to a full evidentiary hearing.” (*In re E.S.*, *supra*, 196 Cal.App.4th at p. 1340; see also *In re C.J.W.*, *supra*, 157 Cal.App.4th at pp. 1080-1081 [hearing

requirement of § 388 satisfied by hearing limited to receipt of written evidence and substantial argument from counsel].)

Although the juvenile court has discretion to limit the evidence at a section 388 hearing, such discretion “is not absolute and does not override due process considerations.” (*In re Matthew P.* (1999) 71 Cal.App.4th 841, 850-851.) When “due process rights are triggered, it must be determined ‘what process is due.’ [Citations.]” (*In re E.S.*, *supra*, 196 Cal.App.4th at p. 1340.) “It is well recognized that due process is a flexible concept which depends upon the circumstances and a balancing of various facts.” (*Ibid.*; *In re Jeanette V.* (1998) 68 Cal.App.4th 811, 817.)

*In re C.J.W.*, *supra*, 157 Cal.App.4th 1075 is instructive. In that case, the juvenile court held a hearing on the parents’ section 388 petitions, but did not allow the parents to testify. (*Id.* at pp. 1080-1081.) It did, however, “receive written evidence and heard substantial argument from counsel for the parties.” (*Ibid.*, fn. omitted.) On appeal, this court held that the hearing “comported with due process,” citing the failure of the parents to identify what further evidence they wanted to present and the fact that the juvenile court appeared to base its ruling on the paucity of evidence submitted by the parents in their petitions, not on the social workers’ reports. (*Id.* at p. 1081.)

Here, it appears the court received and considered the documentary evidence attached to Mother’s section 388 petition, which the court said “looks solid.” The parents did not make a further offer of proof or otherwise indicate what evidence they would

have offered if a “full evidentiary hearing” had been held.<sup>5</sup> Neither parent, for example, indicated that they desired to testify or requested to cross-examine a social worker about statements in the reports.

A fact that potentially distinguishes *In re C.J.W.* is that the court in that case did not rely on the social workers’ reports, while the court in this case appears to have based its ruling on the social workers’ reports that Mother “had again engaged in domestic violence with [Father].” Such reliance on the social workers in this case, however, does not raise a due process concern because the parents did not dispute any facts set forth in the social workers’ reports or indicate any desire to cross-examine the social workers or present evidence to rebut the statements. Indeed, during argument, Mother’s counsel expressly “acknowledge[d] the April 1st domestic violence incident.” Father’s counsel went further, arguing against granting Mother’s petition because of concern for Mother’s “cannibalistic traits.”

In their briefs on appeal, neither parent identifies what additional evidence they would have presented if permitted to do so. Under these circumstances, we hold the court acted within the discretion it was given under rule 5.570(h)(2) regarding the conduct of the hearing and that the parents were not deprived of due process.

---

<sup>5</sup> Although Mother refers to an “offer of proof” in her brief on appeal, she appears to be referring to the evidence attached to her section 388 petition, which the court appears to have considered. For purposes of our due process analysis, however, the relevant offer of proof is of evidence that the court did not permit or consider.

The cases Mother primarily relies upon are inapposite. *In re Hashem H.* (1996) 45 Cal.App.4th 1791 and *In re Aljamie D.* (2000) 84 Cal.App.4th 424 involved juvenile court rulings that denied a parent's section 388 petition without any hearing whatsoever. (See *In re Hashem H.*, *supra*, at p. 1798; *In re Aljamie D.*, *supra*, at p. 429.) In *In re Hashem H.*, the ruling was erroneous because the mother's petition demonstrated "an adequate prima facie showing of changed circumstances . . . , which required the court to hold a hearing." (*In re Hashem H.*, *supra*, at p. 1800.) The petition in *In re Aljamie D.* also made a sufficient showing to warrant a hearing. (*In re Aljamie D.*, *supra*, at p. 432.) In contrast to both these cases, Mother was granted a hearing in this case. The cited cases do not address the situation presented here in which a hearing is granted, but the hearing is something less than a full evidentiary hearing.

Finally, the parents' argument is focused on the court's decision to hold a limited hearing on the section 388 petition. It does not appear to us that they are making the further claim that, if the hearing was procedurally sufficient, the court's ruling on the merits was wrong. To the extent they are making such an argument it is rejected; the evidence of Mother's ongoing contact and physical altercations with Father is sufficient to support the court's findings that Mother had not demonstrated a change of circumstance and that the requested change was not in O.P.'s best interest.

*B. Beneficial Parent-child Relationship Exception to Adoption*

Mother contends the court erred in failing to apply the beneficial parental relationship exception to terminating parental rights set forth in section 366.26, subdivision (c)(1)(B)(i).<sup>6</sup> We reject this argument.

At a section 366.26 hearing, the juvenile court determines a permanent plan of care for a dependent child. (*In re Celine R.* (2003) 31 Cal.4th 45, 52-53; *In re Casey D.* (1999) 70 Cal.App.4th 38, 50.) Adoption is the permanent plan preferred by the Legislature. (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 573.) “‘Only if adoption is not possible, or if there are countervailing circumstances, or if it is not in the child’s best interests are other, less permanent plans, such as guardianship or long-term foster care considered.’ [Citation.]” (*Id.* at p. 574.)

“Once the court determines the child is likely to be adopted, the burden shifts to the parent to show that termination of parental rights would be detrimental to the child under one of the exceptions listed in section 366.26, subdivision (c)(1).” (*In re S.B.* (2008) 164 Cal.App.4th 289, 297.) One such exception is the beneficial parental relationship exception. This exception applies when there is “a compelling reason for determining that termination would be detrimental to the child” because the parent has

---

<sup>6</sup> In the juvenile court, Mother did not explicitly refer to the beneficial parental relationship exception or the code section upon which it is based. In her opening brief on appeal, she anticipates the argument that she has forfeited the claim on appeal and contends the claim has been preserved for appeal. CFS, however, does not assert that Mother has forfeited the argument. We will therefore consider the merits of the claim.

“maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).)

Here, CFS does not dispute that Mother satisfied the threshold requirement of regular visitation. We are therefore concerned only with whether Mother established the existence of a beneficial parental relationship and a compelling reason as to how termination of the parental relationship would be detrimental to the children.

To prove the existence of a beneficial parental relationship, the “parent must do more than demonstrate ‘frequent and loving contact[,]’ [citation] an emotional bond with the child, or that parent and child find their visits pleasant. [Citation.]” (*In re Derek W.* (1999) 73 Cal.App.4th 823, 827.) The parent must show that the “relationship promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents. In other words, the court balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent’s rights are not terminated.” (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.)

The juvenile court in the present case addressed the beneficial parental relationship exception in its ruling when it stated that the parents’ bond with O.P. was “not significant enough to change the plan of adoption.”

In reviewing challenges to a trial court's decision as to the applicability of the beneficial parental relationship exception, we will employ the substantial evidence or abuse of discretion standards of review depending on the nature of the challenge. (*In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1315-1316.) We will apply the substantial evidence standard of review to evaluate the evidentiary showing with respect to factual issues. (*Id.* at p. 1315; § 366.26, subd. (c)(1)(B)(i).) However, a challenge to the trial court's determination of questions such as whether, given the existence of a beneficial parental relationship, there is a compelling reason for determining that termination of parental rights would be detrimental to the child "is a quintessentially discretionary determination." (*In re Scott B.* (2010) 188 Cal.App.4th 452, 469.) We review such decisions for abuse of discretion. (*Ibid.*) In the dependency context, both standards call for a high degree of appellate court deference. (*Ibid.*; *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351.)

Mother points to the evidence of her regular visits with O.P., reports that O.P. was excited about and enjoyed the visits, and her "loving relationship with O.P." CFS acknowledges that Mother's visits with O.P. "went well and were consistent," but adds that O.P. "never perceived [M]other in a parental role." Although the two played together during visits, Mother did not bathe, feed, clothe, or put O.P. to bed for a nap. Mother was, CFS contends, "merely a playdate."

The evidence described by Mother is the kind of evidence of "frequent and loving contact" that courts have found is not sufficient to establish the existence of a

beneficial parental relationship. (See, e.g., *In re Marcelo B.* (2012) 209 Cal.App.4th 635, 643; *In re Bailey J.*, *supra*, 189 Cal.App.4th at pp. 1315-1316; *In re Derek W.*, *supra*, 73 Cal.App.4th at p. 827.) Although such interaction “will always confer some incidental benefit to the child” (*Autumn H.*, *supra*, 27 Cal.App.4th at p. 575), the beneficial parental relationship exception to adoption contemplates that the parent occupy a parental role in the child’s life (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1419). Although CFS’s “playdate” comment is unnecessarily pejorative, we agree that the juvenile court could reasonably have concluded that Mother did not occupy a parental role in O.P.’s life.

Even if O.P. and Mother shared a strong parent-child bond, Mother has failed to establish that severing that bond would be detrimental to O.P. A social worker reported that O.P. views the prospective adoptive parents—his maternal grandparents—as parental figures and that O.P. is able to separate from Mother at the end of visits without becoming upset. There is no evidence from any social worker, caregiver, or therapist suggesting that O.P. would be harmed if his relationship with Mother was terminated.

Mother relies on a statement by a social worker made by checking a box on a printed form indicating that the beneficial parental relationship exception would apply. This form does not appear to have been offered or introduced into evidence at the section 366.26 hearing. Moreover, that statement was made in November 2012—eight months before the section 366.26 hearing and prior to Mother’s relapse for marijuana use and the incidents with Father that led to the termination of services. Even if it had been before the court at the hearing, it would likely have had little or no persuasive value.

Based on our review of the record, the court did not err in concluding that the beneficial parental relationship exception to adoption did not apply.

#### IV. DISPOSITION

The orders appealed from are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

KING  
J.

We concur:

RAMIREZ  
P. J.

MILLER  
J.